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REMARKS/ARGUMENTS

By way of the present amendment, Claims 1-4 and 6-9 have been amended. Claim 5 has not been amended. New Claims 10-20 have been added. No new matter has been added by way of these new claims, which find support in original Claims 1-9 and throughout the specification. Twenty claims, Claims 1-20, are now pending in the application.

Claim Rejections – 35 U.S.C. §112

Claims 1-4 and 6-9 have been amended herewith in response to the Examiner's rejections of these claims for failing to particularly point out and distinctly claim the subject matter of the present invention. Claim 5 appears to have been inadvertently included within the range of Claims 1-9 by the Examiner when forming this rejection. Claim 5 appears to satisfy the requirements of 35 U.S.C. §112. Thus, Applicants have not amended Claim 5. All other claims, Claims 1-4 and 6-9 have been amended to correct all inferential inclusions and vague and unclear references to elements.

Claim Rejections – 35 U.S.C §102

Independent Claims 1 and 9 have been amended herewith in response to the Examiner's rejections of these claims (and dependent Claims 2, 4, and 5) as anticipated by Fischell, et al. (EP 0911061). Claims 1 and 9, as amended, now require an open loop system. The use of "only" in Claims 1 and 9 as amended (relative to the data and programs stored in the memory) distinguishes the present invention from a closed-loop operative system, such as that taught by Fischell, et al.

Fischell, et al. require a closed-loop system in which EEG signals are sensed by electrodes during a neurological event. The signals are then processed by signal conditioning means in a control module and an appropriate response by the system is then sent via, e.g., electrical stimulation to a patient's tissue. In paragraph [0005] of the "Background of the Invention", Fischell, et al. point out the disadvantages of an open

loop system, and thus teach away from using an open-loop device as that presently claimed.

By contrast, the present invention as currently claimed does not include sensed data as a means for modifying stimulation parameters. Rather, the invention as claimed only controls electrical stimuli using the data and programs stored in the memory of the implantable pulse generator. Thus, the teachings of Fischell, et al. neither anticipate nor render the present invention obvious as currently amended. Applicants submit that independent Claims 1 and 9, including Claims 2-8 and newly added Claims 10-16 which depend therefrom, are currently in condition for allowance. Further, newly added independent Claim 17, and newly added Claims 18-20 that depend therefrom, similarly require an open-loop system and should also be in condition for allowance.

Also, Fischell, et al. fail to teach every element of independent Claims 1 and 9 because Fischell, et al. do not disclose leads with electrode arrays including more than one electrode. Claims 1 and 9 require "a plurality of electrodes" on each electrode array. Fischell, et al. merely disclose one electrode per lead. See, e.g., FIG. 1, EP0911061. Because Fischell, et al. do not teach every element of Claims 1 and 9, Applicants submit that Claims 1 and 9 are not anticipated by Fischell, et al. and are currently in condition for allowance.

Claim Rejections – 35 U.S.C. §103

As mentioned above, Applicants have hereby amended independent Claim 1 to require an open-loop system from which Fischell, et al. teach away. See paragraph [0005], EP 0911061. Thus, the inventions included within dependent Claims 3 and 6-8 which depend from Claim 1, would not be obvious to one of ordinary skill in the art in light of the current amendments to Claim 1. Applicants thus submit that Claims 3 and 6-8 are currently in condition for allowance.

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In view of the above, applicants respectfully request that a timely Notice of Allowance be issued in this case.

Respectfully Submitted,

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